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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Steven T. Mitchell
Appl. No.: 10/685,139
Confirm. No.: 4489
Filed: October 14, 2003
Title: INTERSPINOUS PROCESS AND
SACRUM IMPLANT AND METHOD

PATENT APPLICATION

Art Unit: 3732
Examiner: Eduardo C. Robert

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to M/S Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 17, 2005.

MLB

(Attorney Signature)

Melissa L. Basch, Reg. No. 56,159

Signature Date: May 17, 2005

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- ☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ☒ The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (*), which were previously submitted

by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

- ✓ If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).
- ***PTA Statement under 37 C.F.R. §1.704(d).*** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

This statement should be considered because:

- ✓ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:
- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
 - (2) It is being filed within 3 months of entry of a national stage;
-- OR --
 - (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
 - (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.
- **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:
- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.
-- AND (check at least one of the following) --
 - (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
 - (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: 5-17-05

By: WSL
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— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

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Form PTO-1449

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEAttorney Docket Number
KLYC-01075US1Serial/Patent Number
10/685,139INFORMATION DISCLOSURE STATEMENT
BY APPLICANT

(Use several sheets if necessary)

Applicant/Patent Owner
Steven T. MitchellFiling/Issue Date
October 14, 2003Group Art Unit:
3732

U.S. PATENTS

Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	1.	RE. 36,758	06/27/2000	Fitz	623	017	3/16/95
	2.	2,456,806	12/21/48	Wolffe	033	174	01/14/47
	3.	2,677,369	05/04/54	Knowles	128	092	03/26/52
	4.	3,426,364	02/11/69	Lumb	003	001	08/25/66
	5.	3,643,658	02/22/72	Steinemenan	128	920	08/27/69
	6.	3,648,691	03/14/72	Lumb	128	920	02/24/70
	7.	3,867,728	02/25/75	Stubstad	003	001	04/05/73
	8.	3,875,595	04/08/75	Froning	003	001	04/15/74
	9.	4,034,418	07/12/77	Jackson	003	1.911	05/11/76
	10.	4,219,015	08/26/80	Steinemenan	128	92D	04/18/78
	11.	4,309,777	01/12/82	Patil	003	1.91	11/13/80
	12.	4,349,921	09/21/82	Kuntz	003	001	06/16/80
	13.	4,369,769	01/25/83	Edwards	128	069	06/16/80
	14.	4,401,112	08/30/83	Rezaian	128	92B	10/02/81
	15.	4,455,690	06/26/84	Homsy	003	001	11/06/80
	16.	4,479,491	10/30/84	Martin	128	92B	07/26/82
	17.	4,501,269	02/26/85	Bagby	128	96G	02/21/84
	18.	B1 4,502,161	07/25/89	Wall	623	018	08/19/83
	19.	4,553,273	11/19/85	Wu	623	018	11/23/83
	20.	4,554,914	11/26/85	Kapp	128	92C	10/04/83
	21.	4,599,084	07/08/86	Nashef	623	016	05/2483
	22.	4,599,086	07/08/86	Doty	623	017	06/07/85

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	23.	4,604,995	08/12/86	Stephens	128	069	03/30/84
	24.	4,611,582	09/16/86	Duff	128	069	12/27/83
	25.	4,636,217	01/13/87	Ogilvie	623	017	04/23/85
	26.	4,643,178	02/17/87	Nastari	128	092	04/23/84
	27.	4,657,550	04/14/87	Daher	623	017	01/16/86
	28.	4,685,447	08/11/87	Iversen	128	01R	03/25/85
	29.	4,696,290	09/29/87	Steffee	128	069	03/31/86
	30.	4,714,469	12/22/87	Kenna	623	017	02/26/87
	31.	4,743,256	05/10/88	Brantigan	623	017	01/22/87
	32.	4,772,287	09/20/88	Ray	623	017	08/20/87
	33.	4,790,303	12/13/88	Steffee	128	924M	03/11/87
	34.	4,834,757	05/30/89	Brantigan	623	017	03/28/88
	35.	4,878,915	11/07/89	Brantigan	623	017	01/04/89
	36.	4,904,260	02/27/90	Ray	623	017	07/25/88
	37.	4,904,261	02/27/90	Dove	623	017	08/04/88
	38.	4,913,134	04/03/90	Luque	128	069	07/29/88
	39.	4,923,471	05/08/90	Morgan	623	016	10/17/89
	40.	4,932,975	06/12/90	Main	623	017	10/16/89
	41.	4,936,848	06/26/90	Bagby	623	017	09/22/89
	42.	4,946,378	08/07/90	Hirayama	623	017	11/22/88
	43.	4,961,740	10/09/90	Ray	606	061	10/17/88
	44.	4,969,888	11/13/90	Scholten	606	094	02/09/89
	45.	5,011,484	04/30/91	Breard	606	061	10/10/89
	46.	5,015,247	05/14/91	Michelson	606	061	06/13/88
	47.	5,015,255	05/14/91	Kuslich	623	017	05/10/89

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Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	48.	5,026,373	06/25/91	Ray	606	061	11/06/89
	49.	5,035,716	07/30/91	Downey	623	017	05/10/90
	50.	5,047,055	09/10/91	Bao	623	017	12/21/90
	51.	5,055,104	10/08/91	Ray	606	061	11/06/89
	52.	5,059,193	10/22/91	Kuslich	606	061	04/19/90
	53.	5,059,194	10/22/91	Michelson	606	061	02/12/90
	54.	5,062,845	11/05/91	Kuslich	606	080	05/10/89
	55.	5,062,850	11/05/91	MacMillan	623	017	01/16/90
	56.	5,074,864	12/24/91	Cozad	606	054	12/21/88
	57.	5,084,049	01/28/91	Asher et al.	606	061	02/08/89
	58.	5,088,869	02/18/92	Greenslade	411	386	01/24/91
	59.	5,092,866	03/03/92	Breard	606	061	02/02/90
	60.	5,105,255	04/14/92	Shannon	357	068	01/10/90
	61.	5,122,130	06/16/92	Keller	606	061	10/25/90
	62.	5,123,926	06/23/92	Pisharodi	623	017	02/22/91
	63.	5,127,912	07/07/92	Ray	606	061	10/05/90
	64.	5,147,404	09/15/92	Downey	623	017	10/24/90
	65.	5,167,662	12/01/92	Hayes	606	061	01/24/92
	66.	5,167,665	12/01/92	McKinney	606	075	12/31/91
	67.	5,180,381	01/19/93	Aust	606	061	09/24/91
	68.	5,192,327	03/09/93	Brantigan	623	017	03/22/91
	69.	5,258,031	11/02/93	Salib	623	017	12/14/92
	70.	5,263,953	11/23/93	Bagby	606	061	12/31/91
	71.	5,275,601	01/04/94	Gogolewski	606	072	09/03/91
	72.	5,290,312	03/01/94	Kojimoto	623	017	09/03/91

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	73.	5,300,073	04/05/94	Ray	606	061	01/28/92
	74.	5,304,178	04/19/94	Stahurski	606	061	05/29/92
	75.	5,306,275	04/26/94	Bryan	606	061	12/31/92
	76.	5,306,309	04/26/94	Wagner	623	017	05/04/92
	77.	5,352,225	10/04/94	Yuan	606	061	01/14/93
	78.	5,366,455	11/22/94	Dove	606	061	11/02/89
	79.	5,387,213	02/07/95	Breard	606	061	08/20/93
	80.	5,390,683	02/21/95	Pisharodi	128	898	02/21/92
	81.	5,391,168	02/21/95	Sanders	606	061	04/01/93
	82.	5,395,372	03/07/95	Holt	606	061	09/07/93
	83.	5,415,661	05/16/95	Holmes	606	069	03/24/93
	84.	5,437,672	08/01/95	Alleyne	606	061	08/26/94
	85.	5,443,514	08/22/95	Steffee	623	017	10/01/93
	86.	5,454,812	10/03/95	Lin	606	061	11/14/94
	87.	5,456,722	10/10/95	McLeod	623	013	07/30/93
	88.	5,458,638	10/17/95	Kuslich	623	017	11/06/92
	89.	5,458,641	10/17/95	Ramirez Jimenez	623	017	09/08/93
	90.	5,458,643	10/17/95	Oka	623	018	02/01/94
	91.	5,468,242	11/21/95	Reisberg	606	069	11/19/93
	92.	5,470,333	11/28/95	Ray	606	061	06/10/93
	93.	5,491,882	02/20/96	Walston	029	419.1	09/13/94
	94.	5,496,318	03/05/96	Howland	606	061	08/18/93
	95.	5,505,732	04/09/96	Michelson	606	061	06/07/95
	96.	5,507,745	04/16/96	Logroscino	606	061	02/18/94
	97.	5,507,823	04/16/96	Walston	623	021	09/15/94

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	98.	5,514,180	05/07/96	Heggeness	623	017	01/14/94
	99.	5,527,312	06/18/96	Ray	606	061	08/19/94
	100.	5,531,747	07/02/96	Ray	606	061	05/30/95
	101.	5,534,028	07/09/96	Bao	623	017	04/20/93
	102.	5,534,029	07/09/96	Shima	623	017	12/01/93
	103.	5,540,689	07/30/96	Sanders	606	061	03/21/94
	104.	5,549,679	08/27/96	Kuslich	623	017	03/01/95
	105.	5,554,191	09/10/96	Lahille	623	017	01/23/95
	106.	5,562,736	10/08/96	Ray	623	017	10/17/94
	107.	5,571,191	11/05/96	Fitz	623	017	03/16/95
	108.	5,577,995	11/26/96	Walker	601	120	06/14/93
	109.	5,584,832	12/17/96	Schlapfer	606	061	03/15/93
	110.	5,593,409	01/14/97	Michelson	606	061	02/17/95
	111.	5,601,553	02/11/97	Trebing	606	061	10/03/94
	112.	5,603,713	02/18/97	Aust	606	061	09/29/94
	113.	5,609,634	03/11/97	Voydeville	623	017	06/30/93
	114.	5,616,142	04/01/97	Yuan	606	061	07/20/94
	115.	5,623,984	04/29/97	Nozaki	164	457	06/23/95
	116.	5,628,756	05/13/97	Barker, Jr.	606	139	07/29/96
	117.	5,645,597	07/08/97	Krapiva	623	017	12/29/95
	118.	5,645,599	07/08/97	Samani	623	017	04/22/96
	119.	5,653,761	08/05/97	Pisharodi	623	017	06/07/95
	120.	5,658,286	08/19/97	Sava	606	061	02/05/96
	121.	5,672,177	09/30/97	Seldin	606	071	01/31/96
	122.	5,674,295	10/07/97	Ray	623	017	04/26/96

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	124.	5,676,702	10/14/97	Ratron	623	017	12/01/95
	125.	5,702,455	12/30/97	Saggar	623	017	07/03/96
	126.	5,725,582	03/10/98	Bevan	623	017	08/18/93
	127.	5,741,261	04/21/98	Moskovitz	606	079	06/25/96
	128.	5,766,251	06/16/98	Koshino	623	016	11/15/96
	129.	5,766,252	06/16/98	Henry	623	017	01/24/95
	130.	5,800,438	09/01/98	Tuke	606	090	10/22/96
	131.	5,824,098	10/20/98	Stein	623	020	10/03/96
	132.	5,836,948	11/17/98	Zucherman	606	061	01/02/97
	133.	5,860,977	01/19/99	Zucherman	606	061	10/27/97
	134.	5,865,846	02/02/99	Bryan	623	017	05/15/97
	135.	5,876,402	03/02/99	Errico	606	061	03/29/96
	136.	5,876,404	03/02/99	Zucherman	606	061	08/25/98
	137.	5,879,396	03/09/99	Walston	623	021	04/25/97
	138.	5,885,299	03/23/99	Winslow	606	099	03/14/96
	139.	5,888,224	03/30/99	Beckers	627	017	09/05/97
	140.	5,888,226	03/30/99	Rogozinski	623	017	11/12/97
	141.	5,951,555	09/14/99	Rehak	606	061	03/27/96
	142.	5,976,186	11/02/99	Bao	623	017	06/25/96
	143.	6,001,130	12/14/99	Bryan	623	017	10/06/97
	144.	6,022,376	02/08/2000	Assell	623	017	03/16/98
	145.	6,030,162	02/29/2000	Huebner	411	413	12/18/98
	146.	6,045,554	04/04/2000	Grooms	606	073	06/17/98
	147.	6,048,204	04/11/2000	Klardie	433	174	12/22/98

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Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	148.	6,048,342	04/11/2000	Zucherman	606	061	1027/98
	149.	6,048,344	04/11/2000	Schenk	606	073	11/17/98
	150.	6,068,630	05/30/2000	Zucherman	606	061	10/20/98
	151.	6,099,531	08/08/2000	Bonutti	606	087	08/20/98
	152.	6,113,639	09/05/2000	Ray	623	17.16	03/23/99
	153.	6,129,730	10/10/2000	Bono	606	073	02/10/99
	154.	6,132,464	10/17/2000	Martin	623	017	06/16/95
	155.	6,139,550	10/31/2000	Michelson	606	069	02/11/98
	156.	6,152,927	11/28/2000	Farris	606	069	09/20/99
	157.	6,156,067	12/05/2000	Bryan	623	17.15	05/15/97
	158.	6,190,414 B1	02/20/2001	Young	623	17.15	10/31/96
	159.	6,193,721 B1	02/27/2001	Michelson	606	070	02/11/98
	160.	6,200,322 B1	03/13/2001	Branch	606	096	08/13/99
	161.	6,206,922 B1	03/27/2001	Zdeblick	623	17.11	01/28/98
	162.	6,217,580 B1	04/17/2001	Levin	606	071	08/17/99
	163.	6,224,602 B1	05/01/2001	Hayes	606	069	10/11/99
	164.	6,224,607 B1	05/01/2001	Michelson	606	096	01/25/2000
	165.	6,228,900 B1	05/08/2001	Shen	522	153	07/08/97
	166.	6,234,705 B1	05/22/2001	Troxell	403	237	04/06/99
	167.	6,261,296 B1	07/17/2001	Aebi	606	090	10/01/99
	168.	6,293,949 B1	09/25/2001	Justis	606	061	03/01/2000
	169.	6,306,136 B1	10/23/2001	Baccelli	606	061	07/27/98
	170.	6,352,537 B1	03/05/2002	Strnad	606	061	09/17/98
	171.	6,368,351 B1	04/09/2002	Glenn	623	17.15	03/27/2001
	172.	6,383,186 B1	05/07/2002	Michelson	606	069	09/26/2000

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Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	173.	6,395,030 B1	05/28/2002	Songer	623	17.11	04/27/2000
	174.	6,398,783 B1	06/04/2002	Michelson	606	070	07/17/2000
	175.	6,402,756 B1	06/11/2002	Ralph	606	071	02/15/2001
	176.	6,419,703 B1	07/16/2002	Fallin	623	17.11	03/01/2001
	177.	6,428,542 B1	08/06/2002	Michelson	606	070	07/17/2000
	178.	6,436,145 B1	08/20/2002	Miller	623	20.34	06/02/2000
	179.	6,454,771 B1	09/24/2002	Michelson	606	070	01/04/2001
	180.	6,458,131 B1	10/01/2002	Ray	606	061	08/07/2000
	181.	6,527,776 B1	03/04/2003	Michelson	606	070	07/17/2000
	182.	6,558,423 B1	05/06/2003	Michelson	623	17.11	05/05/2000
	183.	6,558,686 B1	05/06/2003	Darouiche	424	423	11/08/95
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